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August 15, 2016

Regulation Package No. 0316-04

CDSS MANUAL LETTER NO. CCL-16-07

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL,  
TITLE 22, DIVISION 6, CHAPTER 4, SMALL FAMILY HOMES

**Regulation Package # 0316-04**

**Effective 7/7/16**

**Sections 83074, 83087**

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG647.htm>.

This is an editorial package filed pursuant to California Code of Regulations (CCR), Title 1, section 100. These changes make the regulations consistent with Health and Safety (H&S) Code sections 1530.7 and 1503.2 and, otherwise, do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provisions. The changes made are without regulatory effect because they either (1) delete a regulatory provision for which all statutory authority has been repealed, (2) make a regulatory provision consistent with changes to California statutes, (3) change authority or reference citations or (4) revise grammar or syntax errors [1 CCR sections 100 (a)(2),(a)(4),(a)(5) and (a)(6)].

It is the intent of the Department based on its statutory authority to promulgate regulations that ensure children in foster care have the right to be accorded safe, healthful and comfortable home accommodation free from toxic exposure to carbon monoxide and the right to be free of the risks and toxic exposure of secondhand smoke from all tobacco products while at home and when being transported by care providers.

These amendments are necessary to comply with Assembly Bill (AB) 352 (Chapter 292, Statutes of 2013) and AB 2386 (Chapter 503, Statutes of 2014).

## FILING INSTRUCTIONS

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-16-06. The latest prior manual letter containing Small Family Homes regulations changes was Manual Letter No. CCL-12-02.

Page(s)

31 through 32.1  
35 through 38

Replace(s) Page(s)

31 through 32  
35 through 38

Attachment

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**83074 TRANSPORTATION****83074**

- (a) In addition to Section 80074, the following shall apply.
- (b) When transporting children in a private motor vehicle the licensee shall secure the children as specified below:
- (1) Infants shall be secured in a car seat designed for infants.
  - (2) All children between two and four years of age and all children who weigh less than 40 pounds, or who have disabilities which prevent them from sitting unassisted, shall be secured in a car seat or harness designed for such children.
  - (3) Children over four years of age and who weigh over 40 pounds who are able to sit unassisted shall be secured in the vehicle's regular seat belt/harness.
- (c) The caregiver and his/her staff are prohibited from smoking a tobacco product, or permitting any person from smoking a tobacco product in a motor vehicle that is regularly used to transport children, regardless of when the children are present. This prohibition applies when the motor vehicle is moving or at rest. Smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code, and tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

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Business and Professions Code sections 22950.5(c) and (d) provide:

(c) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(d) (1) "Tobacco product" means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.7, 1531 and 118948, Health and Safety Code; and 22950.5(c) and (d), Business and Professions Code.

**83075 HEALTH RELATED SERVICES****83075**

- (a) In addition to Section 80075, the following shall apply.
- (b) When a child shows signs of serious illness or injury, the licensure shall have the nature of the illness or injury determined by a physician as quickly as possible.
- (c) Whenever a child is exposed to a serious communicable disease, or has any illness or injury which requires medical treatment or for which the cause is unknown, the licensee shall be responsible for ensuring that the child's immediate medical needs are met.
  - (1) As soon as the child's immediate needs are met, the licensee shall notify the child's authorized representative.
- (d) Notwithstanding the requirements of Section 80075(d), when a child is unable to determine and/or communicate his/her need for a prescription or nonprescription PRN medication, the licensee may assist the child without contacting the child's physician prior to each dose provided that all of the following conditions are met:
  - (1) The child's physician has recommended or prescribed the medication and provided written instructions for its use in at least the level of detail specified in Sections 80075(c)(1) and (e).
  - (2) The date, time and content of the physician contact required in Section 83075(d)(1) shall be documented and maintained in the child's file.
  - (3) The date and time each PRN medication dosage was taken, the exact symptoms for which it was given, the dosage taken and the child's response shall be documented and maintained in the child's record.
  - (4) The medication is given according to the physician's directions.
- (e) When providing family health care, the licensee shall ensure that the child's physician or designated registered nurse has assigned the specific task(s) and has provided adequate practical and written instruction.
  - (1) The date, time and content of the initial contact with the physician or nurse shall be documented and maintained in the child's file.

**83075 HEALTH RELATED SERVICES**  
(continued)**83075**

- (f) Any time a child is in the home, at least one of the persons providing regular and routine direct care and supervision to the child shall have received current training in First Aid and Cardio Pulmonary Resuscitation (CPR). Training shall be obtained from an agency offering such training including, but not limited to, the American Red Cross, and shall be appropriate to the child's age and needs.
- (1) The caregiver shall complete First Aid and CPR training in addition to training which increases understanding of, and skill in, caring for children.
  - (2) The licensee shall maintain copies of current First Aid and CPR certificates.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530.6 and 531, Health and Safety Code.

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**Article 7. PHYSICAL ENVIRONMENT****83087 BUILDINGS AND GROUNDS****83087**

- (a) In addition to Section 80087, the following shall apply.
- (b) The licensee shall provide bedrooms in the home which shall meet, at a minimum, the following requirements:
- (1) No more than two children shall share a bedroom.
  - (2) Children of the opposite sex shall not share a bedroom unless each child is under five years of age.
  - (3) No room commonly used for other purposes shall be used as a bedroom, except as permitted pursuant to Section 80024.
    - (A) Such rooms shall include but not be limited to halls, stairways, unfinished attics or basements, garages, storage areas and sheds or similar detached buildings.
  - (4) No bedroom shall be used as a public or general passageway to another room.
  - (5) Except for infants, children shall not share a bedroom with an adult.
    - (A) In bedrooms shared by adults and infants, no more than one infant and no more than two adults shall share the room.
    - (B) If two children have been sharing a bedroom and one of them turns 18, they may continue to share the bedroom as long as they remain compatible and the licensing agency has granted an exception, pursuant to Section 80024.
  - (6) Subsections 83087(b)(1), (2), (3), (4), and (5) apply to all bedrooms used by all children residing in the facility, including children who are members of the licensee's family, guardianship children, and children in placement.
  - (7) Sections 83087(b)(3) and (4) apply to all bedrooms used by the licensee(s) and all other adults residing in the facility.
- (c) The licensee who accepts a child with a disability shall make necessary specific provisions including but not limited to changes to the buildings and grounds as required to protect and assist the child and maximize the child's potential for self-help.
- (d) The licensee shall prohibit smoking in the facility and on the grounds of the facility.
- (e) Every small family home shall have one or more carbon monoxide detectors in the home that meets the standards established in Health and Safety Code Chapter 8 (commencing with Section 13260) of Part 2 of Division 12.

**83087 BUILDINGS AND GROUNDS**  
(continued)**83087**

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Health and Safety Code Section 13260 provides:

"This chapter shall be known and may be cited as the Carbon Monoxide Poisoning Prevention Act of 2010."

Health and Safety Code Section 13261 provides:

"The Legislature finds and declares all of the following:

"(a) According to the American Medical Association, carbon monoxide is the leading cause of accidental poisoning deaths in the United States. The federal Centers for Disease Control and Prevention estimate that carbon monoxide kills approximately 500 people each year and injures another 20,000 people nationwide.

(b) According to the United States Environmental Protection Agency, a person cannot see or smell carbon monoxide. At high levels carbon monoxide can kill a person in minutes. Carbon monoxide is produced whenever any fuel, such as gas, oil, kerosene, wood, or charcoal, is burned.

(c) The State Air Resources Board estimates that every year carbon monoxide accounts for between 30 and 40 avoidable deaths, possibly thousands of avoidable illnesses, and between 175 and 700 avoidable emergency room and hospital visits.

(d) There are well-documented chronic health effects of acute carbon monoxide poisoning or prolonged exposure to carbon monoxide, including, but not limited to, lethargy, headaches, concentration problems, amnesia, psychosis, Parkinson's disease, memory impairment, and personality alterations.

(e) Experts estimate that equipping every home with a carbon monoxide device would cut accident-related costs by 93 percent. Eighteen states and a number of large cities have laws mandating the use of carbon monoxide devices.

(f) Carbon monoxide devices provide a vital, highly effective, and low-cost protection against carbon monoxide poisoning and these devices should be made available to every home in California.

(g) The Homeowners' Guide to Environmental Hazards prepared pursuant to Section 10084 of the Business and Professions Code is an important educational tool and should include information regarding carbon monoxide. It is the intent of the Legislature that when the booklet is next updated as existing resources permit, or as private resources are made available, it be updated to include a section on carbon monoxide."

Health and Safety Code Section 13262 provides:

"(a) 'Carbon monoxide device' means a device that meets all of the following requirements:

(1) A device designed to detect carbon monoxide and produce a distinct, audible alarm.

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(2) A device that is battery powered, a plug-in device with battery backup, or a device installed as recommended by Standard 720 of the National Fire Protection Association that is either wired into the alternating current power line of the dwelling unit with a secondary battery backup or connected to a system via a panel.

(3) If the device is combined with a smoke detector, the combined device shall comply with all of the following:

(A) The standards that apply to carbon monoxide alarms as described in this chapter.

(B) The standards that apply to smoke detectors, as described in Section 13113.7.

(C) The combined device emits an alarm or voice warning in a manner that clearly differentiates between a carbon monoxide alarm warning and a smoke detector warning.

(4) The device has been tested and certified, pursuant to the requirements of the American National Standards Institute (ANSI) and Underwriters Laboratories Inc. (UL) as set forth in either ANSI/UL 2034 or ANSI/UL 2075, or successor standards, by a nationally recognized testing laboratory listed in the directory of approved testing laboratories established by the Building Materials Listing Program of the Fire Engineering Division of the Office of the State Fire Marshal of the Department of Forestry and Fire Protection.

(b) 'Dwelling unit intended for human occupancy' means a single-family dwelling, factory-built home as defined in Section 19971, duplex, lodging house, dormitory, hotel, motel, condominium, stock cooperative, time-share project, or dwelling unit in a multiple-unit dwelling unit building or buildings. "Dwelling unit intended for human occupancy" does not mean a property owned or leased by the state, the Regents of the University of California, or a local governmental agency.

(c) 'Fossil fuel' means coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products, which emit carbon monoxide as a byproduct of combustion."

Health and Safety Code Section 13263 provides:

"(a) (1) The State Fire Marshal shall develop a certification and decertification process to approve and list carbon monoxide devices and to disapprove and delist previously approved devices, if necessary. The certification and decertification process shall include consideration of effectiveness and reliability of the devices, including, but not limited to, their propensity to record false alarms. The certification and decertification process shall include a review of the manufacturer's instructions and shall ensure their consistency with building standards applicable to new construction for the relevant type of occupancy with respect to number and placement.

(2) The State Fire Marshal shall charge an appropriate fee to the manufacturer of a carbon monoxide device to cover his or her costs associated with the approval and listing of carbon monoxide devices.

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**83087 BUILDINGS AND GROUNDS**  
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(b) A person shall not market, distribute, offer for sale, or sell any carbon monoxide device in this state unless the device and the instructions have been approved and listed by the State Fire Marshal."

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1503.2, 1531, 13260, 13261, 13262 and 13263, Health and Safety Code and *"The Health Consequences of Involuntary Exposure to Tobacco Smoke": A Report of the Surgeon General (2006)*.

**83087.1 ADDITIONAL BUILDINGS AND GROUNDS REQUIREMENTS  
FOR SPECIALIZED SMALL FAMILY HOMES**

83087.1

- (a) Areas in the home, including bedrooms, bathrooms, toilets, dining areas, passageways and recreational spaces used by a child with special health care needs shall be large enough to accommodate any medical equipment needed by the child therein.
- (1) Bedrooms occupied by children with special health care needs shall be large enough to allow the storage of each child's personal items and any required medical equipment or assistive devices, including wheelchairs, adjacent to the child's bed.
- (A) The bedroom shall be large enough to permit unobstructed bedside ministrations of medical procedures and medications.
- (b) Notwithstanding Section 83087(b)(1), a bedroom used by a child with special health care needs shall not be shared with another minor residing in the facility if the child's need for medical services or the child's medical condition would be incompatible with the use and enjoyment of the bedroom by each minor.
- (c) When required by the child's individualized health care plan, the licensee(s) or other adult caring for the child, shall sleep in a bedroom adjacent or in close proximity to the child's room.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Section 17732, Welfare and Institutions Code.

**83087.2 OUTDOOR ACTIVITY SPACE**

83087.2

- (a) The licensee shall provide outdoor activity space which is free from hazards to life and health.
- (1) The outdoor activity space shall include, but not be limited to, activity centers and public parks where the licensee resides in an apartment, condominium, or similar housing arrangement which does not have separate yard space.

**83087.2 OUTDOOR ACTIVITY SPACE 83087.2**  
(Continued)

- (2) A sketch of the physical plant as required in the plan of operation, pursuant to Section 80022, shall include the location(s) of outdoor activity space.
- (3) The outdoor activity space shall not include any area made inaccessible by fencing pursuant to Section 80087(f).
- (4) Where natural or man-made hazards such as canals, cliffs, condemned buildings, creeks, ditches, lakes, ocean fronts, mines, power lines, quarries, rivers, ravines, swamps, watercourses, and areas subject to flooding lie on or adjacent to the facility premises, the outdoor activity space shall be inaccessible to such hazards.
  - (A) Where a fence or wall is used to make the outdoor activity space inaccessible, the requirements of Section 80087(f)(1) shall be met.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

**83087.4 STORAGE SPACE 83087.4**

Repealed by Manual Letter 85-23 (effective 6/20/85).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

**83088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES 83088**

- (a) In addition to Section 80088, the following shall apply.
- (b) The licensee shall maintain at least one toilet, sink, and tub or shower in the home.
- (c) The licensee shall provide each child with an individual bed which is equipped with a clean, comfortable mattress, clean linens, blankets, and pillows, as needed, all in good repair.

**83088****FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)****83088**

- (1) No small family home shall have more beds for children's use than required for the maximum capacity approved by the licensing agency.
  - (A) This requirement shall not apply to the beds made available for illness or separation in an isolation room or area as specified in Section 80087(d).
- (2) Linen shall be changed at least once per week or more often when necessary to ensure that clean linen is in use by children at all times.
- (3) Beds shall be arranged to allow easy passage between beds and easy entrance into the room.

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- (4) Rubber or plastic sheeting or bed coverings should be provided when needed.

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- (d) The licensee shall provide each infant with a safe and sturdy bassinet or crib, appropriate to the child's age and size.
- (e) Bunk beds of more than two tiers shall not be used.
  - (1) Bunk beds shall have railings on the upper tier to prevent falling.
  - (2) Children under 5 years of age or those who are unable to climb into or out of the upper tier unassisted shall not be permitted to use the upper tier.
- (f) The licensee shall provide toys, games, books and recreational and educational materials for the children, based upon their ages, and mental and physical development.
- (g) Each bedroom shall have portable or permanent closets and drawer space to accommodate the child's clothing and personal belongings.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.